

ensby, et al. vs. City of Cincinnati, et al.
bcr 21, 2003

DARREN VERESE SELLERS

1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -
ESTATE OF ROGER D. :
OWENSBY JR., et al., :
:
Plaintiffs, :
vs. : Case No. 01-CV-769
: (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
:
Defendants. :
- - - - -

Videotaped deposition of DARREN VERESE

SELLERS, witness herein, called by the plaintiffs
for cross-examination, pursuant to the Federal Rules
of Civil Procedure, taken before me, Wendy Davies
Welsh, a Registered Diplomate Reporter and Notary
Public in and for the State of Ohio, at the offices
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &
Walnut Centre, 105 East Fourth Street, Cincinnati,
Ohio, on Tuesday, October 21, 2003, at 10:09 a.m.

Owensby, et al. vs. City of Cincinnati, et al.
October 21, 2003

DARREN VERESE SELLERS

	Page 2	Page 4
1 APPEARANCES:		
2 On behalf of the Plaintiffs:		
3 Paul B. Martins, Esq.	1	S T I P U L A T I O N S
4 Don Stiens, Esq.	2	It is stipulated by and among counsel for the
5 Helmer, Martins & Morgan Co., L.P.A.	3	respective parties that the deposition of DARREN
6 Suite 1900, Fourth & Walnut Centre	4	VERESE SELLERS, witness herein, called by the
7 105 East Fourth Street	5	plaintiffs for cross-examination, pursuant to the
8 Cincinnati, Ohio 45202	6	Federal Rules of Civil Procedure, may be taken at
9 Phone: (513) 421-2400	7	this time by the notary; that said deposition may be
10 John J. Heibling, Esq.	8	reduced to writing in stenotype by the notary, whose
11 The Heibling Law Firm, L.L.C.	9	notes may then be transcribed out of the presence of
12 3672 Springdale Road	10	the witness; and that proof of the official
13 Cincinnati, Ohio 45251	11	character and qualifications of the notary is
14 Phone: (513) 923-9740	12	expressly waived.
15 On behalf of the Defendants City of Golf Manor,	13	
16 Stephen Tilley, Roby Heiland and Chris	14	
17 Campbell:	15	
18 Lynne Marie Longtin, Esq.	16	
19 Rendigs, Fry, Kiely & Dennis	17	
20 900 Fourth & Vine Tower	18	
21 One West Fourth Street	19	
22 Cincinnati, Ohio 45202-3688	20	
23 Phone: (513) 381-9200	21	
24 On behalf of Defendants City of Cincinnati,	22	
25 Darren Sellers, Jason Hodge:	23	
26 Geri Hernandez Geiler, Esq.	24	
27 Assistant City Solicitor		
28 and		
29 Julie F. Bissinger, Esq.		
30 Chief Counsel		
31 Department of Law		
32 Room 214, City Hall		
33 801 Plum Street		
34 Cincinnati, Ohio 45202		
35 Phone: (513) 352-3346		

	Page 3	Page 5
1 APPEARANCES (Continued):		
2 On behalf of the Defendants Robert B. Jorg,	1	I N D E X
3 Patrick Caton, Jason Hodge, Victor Spellen and	2	Examination by: Page
3 Darren Sellers:	3	Mr. Martins 6
4 Donald E. Hardin, Esq.	4	Ms. Longtin 78
5 Hardin, Lefton, Lazarus & Marks, LLC	5	Mr. Martins 80
5 915 Cincinnati Club Building	6	- - -
6 30 Garfield Place	7	E X H I B I T S
6 Cincinnati, Ohio 45202	8	Deposition Exhibit 37 12
Phone: (513) 721-7300	9	Deposition Exhibit 38 23
Also present:	10	Deposition Exhibit 39 25
Richard W. Grubb, Videographer	10	Deposition Exhibits 40, 41 & 42 41
Lisa Damstrom, Law Clerk	11	Deposition Exhibit 43 43
Helmer, Martins & Morgan Co., L.P.A.	11	Deposition Exhibit 44 70
Mr. Roger Owensby	12	Deposition Exhibit 45 73
Mrs. Brenda Owensby	12	Deposition Exhibit 46 74
Mr. Shawn Owensby	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	
	21	
	22	
	23	
	24	

(800) 578-1542 * MERIT * (513) 381-8228

Page 2 - Page 5

Owensby, et al. vs. City of Cincinnati, et al.
October 21, 2003

DARREN VERESE SELLERS

Page 30	Page 32
1 A. Uh-huh.	1 Q. Well, we're to the point where they
2 Q. All right. While you were at the scene	2 arrive.
3 did you make any -- well, did you have a cell phone?	3 A. Right.
4 A. No.	4 Q. What happens next?
5 Q. Do you know if Officer Hassc had a cell	5 A. They both get out. Like I said, I never
6 phone?	6 really -- I didn't know who they were. My -- Hasse,
7 A. Don't know.	7 he told me what their names were and everything,
8 Q. Do you recall seeing any officers making	8 so...
9 calls on cell phones?	9 Q. When you say they both get out, that would
10 A. I don't recall seeing anybody making any	10 be Jorg and Caton?
11 calls.	11 A. Jorg and Caton. And then Hunter arrives.
12 Q. While you were at the scene do you recall	12 Q. Okay.
13 whether or not any lawyers showed up on the scene?	13 A. And they're outside, and they're telling
14 A. I wouldn't know if they were lawyers	14 me about some guy named LA, which I have no
15 unless they told me, sir.	15 recollection who he is or anything like that, but...
16 Q. I take it one of the things that -- one of	16 Q. Who was telling you about LA or --
17 the first things officers would do on a scene such	17 A. It was Jorg who started the conversation.
18 as this would be to secure the perimeter?	18 Q. And do you recall what he said?
19 A. Usually.	19 A. First thing he said was that, "We're
20 Q. Put up tape?	20 looking for a guy named LA." I said, "Okay. What
21 A. Usually.	21 for?" Well, they didn't really tell me what they
22 Q. Was that done here?	22 were actually looking for him for. It was in -- in
23 A. It was tape put up. I was -- had my hand	23 relation to an investigation for something.
24 in putting up that tape also.	24 After that --
Page 31	Page 33
1 Q. And so once the tape is up, I take it no	1 Q. Let me stop you before you go on. Where
2 onc --	2 were you and where was Officer Jorg when he was
3 A. The scene is closed.	3 telling you this?
4 Q. -- no civilian should be allowed to cross	4 A. Okay. My back is turned -- my car is here
5 the tape?	5 (indicating). So my back is actually to my car,
6 A. No, they shouldn't.	6 okay. So I'm looking --
7 Q. And in this case was that policy followed?	7 Q. Across --
8 A. As far as I know it was.	8 A. -- towards the -- towards the Sunoco,
9 Q. I want to now direct your attention back	9 okay. I'm in that direction looking towards the
10 to November 7th of 2000. If you look at Exhibit --	10 Sunoco. Okay?
11 the sketch -- and I think that's 37.	11 Q. So you're standing out by the, what, the
12 A. Yes, sir.	12 front driver's portion of the car?
13 Q. All right. We had talked through the	13 A. I'm at the front of --
14 position of the cars that Officer Hunter, Officer	14 Q. Of your car?
15 Jorg and Caton had responded with the NTA books or	15 A. -- my car. Right. I'm at the front of my
16 in response to the NTA request.	16 car.
17 A. Uh-huh.	17 Q. And you're looking down Seymour Avenue?
18 Q. Would you, to the best of your	18 A. I'm -- right.
19 recollection now, recall what else happened while	19 Q. Toward --
20 the three cars were seated at that -- at that area	20 A. -- Langdon Farm.
21 behind or in the drive-through area of the Sam's	21 Q. And --
22 Carry Out.	22 A. That's Langdon Farm right there.
23 A. Like what, sir? Be -- can you be more	23 Q. And the Cincinnati Gardens?
24 specific?	24 A. Right. Right.

Owensby, et al. vs. City of Cincinnati, et al.
October 21, 2003

DARREN VERESE SELLERS

Page 34	Page 36
1 Q. Okay.	1 A. He was on the other side of the street.
2 A. Right. Jorg is -- has his back towards	2 Q. Was it -- was it light or dark or --
3 the street. So I guess that's Seymour.	3 A. It was --
4 Q. Yes.	4 Q. -- or twilight?
5 A. His back is towards the street here. All	5 A. It was kind of -- it was kind of dark out
6 right?	6 there. We had some -- it was a light in that
7 Q. Okay.	7 parking lot right there, right where we were
8 A. Hunter and Caton were both in this area	8 standing at. That's why I couldn't really -- I
9 here. I don't know how they were turned or	9 couldn't make out what he even had on or anything or
10 anything, but my attention was brought to him,	10 if it was a he or a she. I just -- could see a body
11 because he's the one nearest me --	11 or a person walking down the street.
12 Q. Talking to you?	12 Q. Okay. Please continue.
13 A. -- and he's the one doing all the talking.	13 A. And that's when Hunter said, well "That's
14 Like I said, he started telling me about some guy	14 him. Is that -- I think that's him. I think that's
15 named LA, they were looking for him. And I kind of	15 him." And one of -- one of them said, "You sure?"
16 like blew that off, because I don't know anybody	16 He's like, "I think so." So we began talking some
17 over there. I don't know who you're talking about,	17 more. And then that's when Jorg said, "Well, we're
18 so it's not a big concern to me.	18 going to go over here and investigate and see who
19 That's when -- after they began talking	19 this guy is."
20 and saying -- after Jorg began talking and saying	20 Jorg, Caton, and Hunter, all three, walked
21 stuff like -- all that stuff and everything, that's	21 down Seymour towards the Sunoco. I went and got
22 when Hunter said to the effect, well, I think that's	22 back in the car with my partner. And the prisoner
23 him. That's him right there.	23 we had in there, he wanted to tell where he had
24 Q. Now, where was Hunter when he said that?	24 gotten the marijuana from. That's why we had the
Page 35	Page 37
1 A. Hunter was, like I said, he was in this	1 under-- the plainclothes car come up there. And
2 area over here. I don't know where -- which way he	2 they met us -- they -- they were at -- on station
3 was turned, but he was over in this area over here.	3 at, I guess it was --
4 So then he said, "That's him right there." And I'm	4 Q. Roselawn?
5 like, okay. You know, it still --	5 A. -- Roselawn Park. They were sitting there
6 Q. Right.	6 waiting on us. Well, then the -- in between that
7 A. I mean, to me it -- it wasn't a big thing	7 time, that's when the radio, we heard a whole bunch
8 to me at the time. I had to deal with what I had to	8 of like -- it wasn't screaming, but it was a lot of
9 deal with right then and there. That's when Jorg	9 static and a lot -- you could hear a person on there
10 came out and said, "Well, he's got a lot of balls to	10 like they were struggling or something, on the
11 come out here and all these police officers and all	11 radio. And that's when the officer needs assistance
12 these cruisers out here."	12 came out. I turned and looked at Hasse. Hasse
13 Q. Did -- did you look over to whocver they	13 said, "That's them, go get them, go help them." So
14 were referring to?	14 I -- I sprinted from over here all the way down
15 A. Well, as he was talking I could see like a	15 towards the Sunoco to where I seen those -- those
16 silhouette of a person. And you know, that's just	16 guys at.
17 out of my peripheral vision.	17 Q. Can you draw an arrow indicating the path
18 Q. Wh--	18 that you took from your car to the area where you
19 A. Big deal.	19 saw everyone.
20 Q. Where was the person?	20 A. Okay.
21 A. The person I seen was walking down	21 Q. Okay. Thank you.
22 Seymour, and he was about to cross the street coming	22 A. Uh-huh.
23 towards the Sunoco.	23 Q. Let me ask you a few things. Had -- do
24 Q. So he was on the other side of the street?	24 you know whether or not Officer Caton talked to your

AFFIDAVIT

STATE OF OHIO : SS
COUNTY OF HAMILTON :

I, Wendy L. Welsh, Notary Public in and for the State of Ohio, do hereby state that the transcript of the deposition of DARREN VERESE SELLERS, deponent herein, having been submitted to said deponent for review and signature, has not been signed within the thirty (30) day period allowed under the Federal Rules; said deposition to now have the same force and effect as though signed.

Wendy L. Welsh
Wendy L. Welsh, Court Reporter

Sworn to before me this 8th day of December, 2003.

Thomas M. Blasing
Thomas M. Blasing
Notary Public - State of Ohio

My commission expires:
May 4, 2004.